IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.3206 OF 2005

Shri Sanjay Eknath Salunke. ...Petitioner.
Vs.
Union of India & Ors. ...Respondents.
....
Ms. Preetam Tendulkar i/b. Mr. S.S. Karkera for the Petitioner.
Mrs. N.V. Masurkar for Respondent Nos.1 to 3.
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CORAM : A.P. SHAH AND
DR.D.Y.CHANDRACHUD, JJ.

July 13, 2005.

P.C.:

The Petitioner was appointed in the Department of Telecom which was then within the administrative control of the Union of India, with effect from 21st May 1985 and was posted as a Telecom Office Assistant at Kalyan. A chargesheet was issued to the Petitioner on 21st November 1999 by the Divisional Engineer at Bhiwandi under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965. The charge against the Petitioner was that he had remained unauthorisedly absent from duty for a period of 437 days from 10th September

1999 until 20th November 2000. The Petitioner received the memo of charges and submitted a reply dated 1st May 2000. The Divisional Engineer in the order of removal that was eventually passed against the Petitioner, noted that the Petitioner had admitted the charge levelled against him in his reply dated 1st May 2000 and had promised to attend to his duties regularly. However, he did not thereafter present himself for duty except during the period 21st November 2000 to 27th January 2001 after which he remained absent continuously. The Petitioner did not participate in the enquiry despite three notices dated 25th May 2001, 7th June 2001 and 18th June 2001. The Enquiry Officer submitted his report on 26th June 2001 holding that the charges that were levelled against the Petitioner had been established. After posting an intimation to show cause dated 7th July 2001 at the last known address of the Petitioner by Registered AD, the Divisional Engineer came to the conclusion that the Petitioner had remained absent unauthorisedly for a period of 437 days without any intimation. The previous record of the Petitioner was found to be adverse and an order of removal from service was thereupon

imposed upon the Petitioner.

2. We have heard Counsel appearing on behalf of the Petitioner. The Petitioner has admitted the charge of unauthorised absence in his reply to the notice to show cause. The Petitioner pleaded by way of defence, his personal difficulties, but that cannot be a ground for remaining absent without the sanction of the employer. The material does not indicate that the Petitioner was disabled for any valid reason – medical or otherwise – from applying for leave and obtaining the sanction of the authorities. In the reply which was filed by the Respondents before the Central Administrative Tribunal, relevant documents having a bearing on the past service record of the Petitioner have been produced. The Petitioner does not have a clean record of service and amongst the documents which have been annexed to the reply is a direction to the Petitioner calling upon him to desist from demanding money from subscribers for processing their cases. Various documents have been placed on the record which reflect upon the dereliction of his duties by the Petitioner. The Central

Administrative Tribunal, declined to entertain the application filed by the Petitioner holding that it ceases to have jurisdiction in view of the absorption of the services of the Petitioner by Bharat Sanchar Nigam Limited. In the circumstances, we have perused the order of the disciplinary authority together with the material on the record including the past record of the Petitioner that was produced before the Tribunal. Having considered the matter, we do not find any justification to interfere with the finding of misconduct or the order of punishment that has been imposed. The misconduct has been established. The Petitioner admitted the charge of unauthorised absence. The past record does not provide any extenuating material. The punishment of removal from service was, justified. There is no merit in the petition. The petition is dismissed.

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